



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 7 2003

Mailed: _____

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Paper Number: 116

In re application of

Mehdi Balooch et al

Serial No. 09/636,134

Filed: August 10, 2000

For: APPARATUS FOR DEPOSITING A LOW WORK FUNCTION MATERIAL :

:
: DECISION ON
: PETITION
:

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed Jan. 9, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of Jan. 2, 2003, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed August 21, 2002 be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

A review of the petitioner's evidence indicates that the request cannot be granted. As set forth in MPEP 711.03(c) II- PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION :

"The showing required to establish the nonreceipt of an Office communication must include a statement from the practitioner stating that Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement. " (emphasis added)

The evidence presented is insufficient to establish that the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that no Notice

of Allowance has been received, and Applicants' file shows that the last communication received from the PTO was an Office action mailed May 22, 2002. However, the instant petition does not contain a statement attesting that a search of the file jacket and docket records was made, and the result of such search revealed that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received and it fails to submit a copy of the docket record where the nonreceived Notice of Allowability and Notice of Allowance and Issue Fee Due would have been entered had it been received.

Accordingly, this application stands abandoned.

The Petition is **DENIED**.



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